Supreme Court, U.S.
FILED
991903 DEC 17 1999
OFFICE OF THE CLERK

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

(CHERYL) ANN MOORE

PETITIONER

VS.

FEDERAL DEPOSIT INSURANCE CORPORATION
C/O ANDREW C. HOVE, COB

RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

(Cheryl) Ann Moore
Pro Se
4820 Westgrove Dr. #601
Addison, TX 75001
972-761-2010 wk
877-735-0378 hm

53pp

QUESTIONS PRESENTED

Plaintiff contends her appeal was in compliance with Rule 60 for Relief of Summary Judgement. "When Plaintiff is a federal employee may have one year to file for relief **Rule 60 (b) Mistakes, Inadvertence; Excusable Neglect; Newly Discovered Evidence, Fraud, etc.:** (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;"

Plaintiff contends issues: 1) Discrimination in promotions, 2) Discrimination on performance evaluation and 3) Discrimination on sick leave , are intertwined and were misrepresented by the adverse party when the adverse party separated these three issues and presented them independent of each other; and seeks relief to reverse the summary judgement of $9,999,999.

1. When adverse personnel actions are a result of discrimination, retaliation and or reprisal and the actions are identified with or pursuant to Title 5 Sections: 7501, 7511 and 7513; 2301 and 2302, USC 720, 706 (Section 15, A&B), 794, 454 is the remedy and or relief cognizable under Rule 1346?

2. When the issues in a case is misrepresented; and the case is dismissed for summary judgement; and the appeal of the case is in compliance with and or pursuant to Rule 60, is there good cause for which an opportunity for full and fair litigation that has not been provided by the Administrative Court and or District Court, can it be transferred to the jurisdiction of the Circuit Court?

3. Is it a requirement for the Defendant to serve a

Summary Judgment on the Plaintiff in the amount of $9,999,999 and is it legal for Plaintiff to request relief of summary judgment in the amount of $9,999,999 be reversed?

LIST OF PARTIES

Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 2053-0001

Federal Deposit Insurance Corporation
Barbara Sarshik, Attorney at Law
550th 17th Street, NW
Washington, DC 20201

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1. Plaintiff reargues the underlying merits of her complaint and challenges the District Court's dismissal of the complaint based on a lack of exhaustion and lack of adequate tolling was in error because her case was misrepresented.	
2. Plaintiff contends that the Circuit Court did have jurisdiction to rule over the decision of the District Court based on Rule 60 and that it is cognizable under Rule 1346.	
Plaintiff contends that this case could had been adjudicated; therefore, plaintiff seeks relief for summary judgement of $9,999,000 to be reversed.	3

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Section 3742 Title 18 USC 2
454 Title 5 USC 2

SUPREME COURT OF THE UNITED
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review and reverse the $9,999,000 judgment below because Plaintiff believes she has suffered double jeopardy.
For cases from federal courts:

The opinion of the United States Fifth Circuit Court of Appeals at Appendix D and to the petition is unpublished at Appendix B.

The opinion of the United States Northern District of Texas Court of Appeals at Appendix C and is unpublished at Appendix B.

The Equal Employment Opportunity Commission at Appendix E dismissed the case on October 12, 1999 because Plaintiff had filed with the District Court.
For cases from state courts:

This case involved a federal Defendant, therefore, there were no petitions made to the state courts although Plaintiff's case was issued a state case number by the Federal District Court.

OPINION BELOW

The date on which the United States Court of Appeals for the Northern District of Texas decided Plaintiff's case was 4/4/98.

A timely petition for rehearing filed on 5/6/98 was denied on 7/20/98 by the United States Court of Appeals for the Northern District of Texas, and a copy of the order denying rehearing.

A petition by Plaintiff to file supplemental information on 8/14/98, 8/17/98, 8/21/98 and appealed on 8/28/98 was denied on 9/24/98 by the United states Court of Appeals for the Northern District of Texas.

A petition to file Rehearing En Banc was declined

10/21/99 by United States Court of Appeals for the Fifth Circuit but was not heard.

A petition to file a stay of Mandate for Writ of Certiorari was declined on 12/2/99 .

JURISDICTION

Jurisdiction of the Court is invoked under *Section 1291, Title 28, United States Code*, as an appeal from a final judgement of conviction and sentence in the United States court for the Northern District of Texas and under *Section 3742, Title 18, United States Codes*, as an appeal of a sentence imposed under the Sentencing *Reform Act of 1984*. Notice of appeal was timely filed in accordance with *Rule 4(b) of the Federal Rules of Appellate Procedure*.

Section 1346(b) grants the federal district courts jurisdiction over a certain category of claims for which the United States has waived its sovereign immunity and "render[ed]" itself liable. *Richards v. United States*,

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the following constitutional and statutory provisions, all of which are set out in Appendix A.

Section 454 US Code
Section 2679 of title 28
Section 1296 of title 28
Section 1346 of title 28
Section 411 US Code

STATEMENT OF THE CASE

Plaintiff contends that the issues in her case were misrepresented by the Defendant. Therefore, this is an appeal of an order denying the Plaintiff motion to appeal the decision made

by the Fifth Circuit Court which affirmed the decision of the U.S. Federal Court of Appeals for the Northern District of Texas affirmed Defendant's motion to dismiss her case because it had been determined that Plaintiff failed to exhaust her administrative remedies before filing a complaint with a federal court of appeals and also claiming that the Plaintiff lack adequate tolling and summary judgement of $9,999,999. This is what the Plaintiff understands.

STATEMENT OF FACTS AND COURSE OF PROCEEDINGS

On December 17, 1996, Plaintiff filed a Grievance and did not receive a resolution. Plaintiff contends the issues were misrepresented because each of the issues identified in Docket FDIC 97-50 are intertwined. This includes the sick leave and the nonselection and/or not qualifying for several of the positions. How each of these issues are intertwined means that Plaintiff connected these to her Performance Evaluation) Marginal Rating. Plaintiff contends the issues were intertwined. The Plaintiff contends that the defendant erred when the defendant separated the three issues. The separation created a misrepresentation of the issues. Plaintiff contends that due to the misrepresentation, her case was dismissed and seeks for relief of the summary judgement to be reversed.

REASONS FOR GRANTING THE PETITION

ISSUES

1. Plaintiff reargues the underlying merits of her complaint and challenges the District Court's dismissal of the complaint based on a lack of exhaustion and lack of adequate tolling was in error.
2. Plaintiff contends that the Circuit Court did have

jurisdiction to rule over the decision of the District Court based on Rule 60 and that it is cognizable under Rule 1346.

Plaintiff contends that this case could had been adjudicated; therefore, plaintiff seeks relief for summary judgement to be reversed.

SUMMARY OF ARGUMENT

If the issues had not been separated, Plaintiff contends the partial acceptance and denial would not have occurred. Plaintiff contends that the Court of Appeals should have recognized the error here. Plaintiff contends the issues were intertwined. The Plaintiff contends that the defendant erred when the defendant separated the three issues. The parties involved knew that there would be other parties relying on the information. However, certain information was omitted. This omission had a bearing on others decision. This misrepresentation was material due to the material misrepresentation or omission of information Plaintiff was suspended for two weeks without pay. *See NELSON v. ADAMS USA, INC., et al. certiorari to the united states court of appeals for the federal circuit.*

ARGUMENT

Standard of Review: The way the Defendant presented the issues deprived the Plaintiff of her civil liberties. The Plaintiff contends that the issues were rearranged to mean something different for what it was intended creating the lack of adequate tolling and exhaust of administrative means. Plaintiff contends that the issues were rearranged to be independent and separate of each other. If the issues had not been separated, Plaintiff contends the partial acceptance and denial would not have occurred

Plaintiff contends an appeal was timely filed in May 6, 1998 Order to Appeal the Decision to dismiss. Order denying motion for Reconsideration to Appeal was denied 7/20/98. Plaintiff filed a Notice to Appeal to the next higher court and then additional information was added regarding the Supplemental Brief. This Appeal was not in reference to 4/24/99 but in response to 7/20/98. Plaintiff contends she filed in response to 7/20/98 was not correctly logged. Plaintiff contends this Appeal was suppose to have been in response to the denial of 7/20/98 for Notice to File Supplemental Information.

Plaintiff's motion to file a supplemental pleading in concordance with Rule 60 (b) is appropriate .

SUPREME COURT OF THE UNITED STATES No. DOCKET 93-1199 DOCKET HR On writ of certiorari to the United States Court of Appeals for the Sixth Circuit "Decided"April 19, 1995 nbsp; Breyer with whom Justice O'Connor and This Court, in v. Locomotive Engineers http://supct.law.cornell.edu/cgi-bin/sup-choice.cgi482+270"482 U.S. 270 (1987), considered the interaction between reconsideration motions and appeal time limits when one wants to petition a court of appeals to review an adverse judgment of an administrative Defendant (which I shall call an "Defendant/court" appeal). The Court held that this interaction resembled that which takes place between (1) an appeal from a District Court judgment to a court of appeals (which I shall call a "court/court" appeal) and (2) certain motions for District Court reconsideration, namely those filed soon after entry of the District Court judgment. (See Fed. Rule App. Proc.4(a)(4).

. See Carnation Co. v. Pacific Westbound Conference, 383 U.S. 213, 222-223 (1966); Mitchell Coal & Coke Co. v. Pennsylvania R. Co., 230 U.S. 247, 266-267 (1913); Jaffe, Primary Jurisdiction, 77 Harv. L. Rev. 1037, 1055 (1964).

Subsequent Events: *The result that respondents seek would be produced, not by the. [Siegert v. Gilley (90-96),*

500 U.S. 226 (1991) 90-96 – DISSENT v. GILLEY No. 90-96e*The first question, then, is whether Plaintiff's claim is "cognizable" under ? 1346(b). caused by the negligent or wrongful act or omission of any employee of the Government [5] while acting within the scope of his office or employment, [6] under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. ? 1346(b).*

The District Court should have recognized that a Defendant knowing presentation of testimony is "inconsistent with the rudimentary demands of justice." (See: Mooney v. Holohan).

Plaintiff filed a timely notice of appeal in accordance with Rule 77(d). On April 24, 1998 Plaintiff filed **"Motion to Extend Time for Appeal"** as an **"Ex parte motion"**. Ex parte motion-If a motion for extension is filed prior the expiration of the appeal *(See (Rule 77(d) and Rule 73, 74 (a) 75(c); Fed. R. Civ.P.)*

CONCLUSION

If the issues had not been separated , Plaintiff contends the partial acceptance and denial would not have occurred. Plaintiff contends that the Court of Appeals should have recognized the error here. Plaintiff contends that due to the misrepresentation, her case was dismissed and for a relief of the summary judgement to be reversed.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date 5/22/2002

.Cheryl Ann Moore Pro Se
4820 Westgrove #601
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972-761-2010 wk 877-735-0378 hm

APPENDIX A

Sec. 454. Appropriate agencies: (a) In General. - Except as provided in subsection (b), the appropriate Agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board. The complaint in an action involving such an alleged violation shall be processed under the procedures specified by the President, or the designee of the President, in such regulations as the President or designee may issue.

(b) Exceptions. - (1) Discrimination. - For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate Agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any employee in the executive branch of the Federal Government (other than a covered employee). (2) Mixed cases. - In the case of any covered employee (within the meaning of section 411) who has been affected by an action which an employee of an executive Agency may appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate Agency shall see the Board, and such matter shall thereafter be processed in accordance with section 7702(a)-(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5. 3) Judicial review. - Notwithstanding any other provision of law (including any provision of law referenced

in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the United States Court of Appeals for the Federal Circuit under section 1296 of title 28.

Sec. 411. Rights and protection under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990 (a) Discriminatory Practices Prohibited - All personnel actions affecting covered employees shall be made free from any discrimination based on - (1) race, color, religion, sex, or national origin, within the meaning of the section 703 of the Civil Rights Act of 1964...(3) disability, within the meaning of section 501 of Rehabilitation Act of 1973...(b) Remedy - ...(A) such as appropriate...(B) ...compensatory damages such as appropriate.

Section 417. Prohibition of intimidation or reprisal. General - It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or ...etc.,

APPENDIX B

Publications:

Moore v. FDIC 98-11048 United States Court of Appeals for the Firth Circuit 1999 U.S. App Lexis 22651 August 26, 1999, Decided Notice Decision Without Published Opinion. Prior History: United States District Court for the Northern District of Texas 3:97-CV-3126-H. Opinion: Affirmed.

APPENDIX C

U.S. District Court
Northern District of Texas (Dallas)
Civil Docket for Case #: 3:97CV-3126-H

Moore V. FDIC Filed 12/22/97
Assigned to: Senior Judge Barefoot Sanders Jury demand
Demand: $9,999,000 Nature of Suit: 440
Lead Docket: No
Dkt # in State Court: is 94cv1916
Cause: 42:2000 Job Discrimination (Race)

PartiesCheryl Ann Moore
Plaintiff]
16300 Ledgemont #1401
Dallas, TX 75248
972-735-00378

V.

Federal Deposit Insurance Corporation
c/o Andrew Hove, COB
Defendant [Cor NTC usa]
US Attorney=s Office
Department of Justice
1100 Commerce Street
3rd Floor
Dallas, TX 75242-1699
USA
214/659-8600

Ingeborg G Chaly
[Cor LD NTC usa]
FDIC
Legal Division
550 17th Street NW
Washington, DC 20420
USA
202/360-0618

Docket Proceedings

Date	Doc #	Docket Entry
12/22/97	1	Complaint filed; Filing Fee $150.00 Receipt #10015 (tsp) [Entry date 12/23/97]
12/22/97	2	Summons(es) issued for defendant FDIC, Pal Coggins, and Janet Reno (iss 3) Preliminary Assignment to Magistrate Judge Kaplan
01/09/98	3	Return of Service executed by certified mail as to Janet Reno, Attorney General (1) (Jas) [Entry date 01/12/98]
01/09/98	4	Return of Service executed by certified mail as to Paul Coggins, US Attorney General (1) (jas) [Entry date 01/12/98]
03/04/98	5	Motion by defendant FDIC to dismiss with prejudice (15-)(jas) Entry date 3/05/98
03/18/98	6	Response by plaintiff Cheryl Ann Moore to [5-1] motion to dismiss with prejudice (15-) (jas) [Entry date 03/19/98]
03/27/98	7	Reply by defendant FDIC to response to [5-1] motion to dismiss with prejudice (4)
04/07/98	8	Motion by defendant FDIC for Ingeborg G Chaly to appear pro hac vice (30(JAS) Entry date 04/08/98]

04/07/98 9 Order granting [8-1] motion for Ingeborg G Chaly to appear pro hac vice (signed by Judge Sanders) Copies to counsel: 4/8/98 Page(s) 1(jas) [Entry date 04/08/98]
04/07/98 10 Memorandum Opinion and Order granting [5-1] motion to dismiss with prejudice (signed by Judge Sanders) Copies to counsel: 4/8/98 Page(s): 5(jas) [Entry date 04/08/98]
04/07/98 11 Judgement for defendant FDIC against plaintiff Cheryl Ann Moore; pla take nothing by her suit against dft and that this suit is dismissed on the merits at pla=s cost. (Signed by Judge Sanders) Copies to counsel: 4/8/98 Page(s): 1(jas) [Entry date 04/08/98]
04/07/98 - Case closed (jas) [Entry date 04/08/98]
04/24/98 12 Motion by plaintiff Cheryl Ann Moore to extend time for appeal (3) (jas) [Entry date 04/27/98]
04/27/98 13 Order denying [12-1] motion to extend time for appeal (signed by Judge Sanders) Copies to counsel: 4/27/98 Page(s) 1 (jas)
04/28/98 14 Return of Service executed by certified mail 12/30/97 as to Janet Reno. US Atty Gen (1)(jas) [Entry date 04/29/98]
05/06/98 15 Motion by plaintiff Cheryl Ann Moore for reconsideration of [13-1] order to appeal the decision to dismiss (15-) (jas)
07/20/98 16 Order denying [15-1] motion for reconsideration of [13-1] order (signed by Judge Sanders) Copies to counsel: 7/20/98 Page(s) 1(jas)
08/14/98 17 **Unfiled per order filed 08/17/98**First Supplemental Petition/Amended Complaint by plaintiff Cheryl Ann Moore, mending [1-1] complaint (2)(jas)[Entry date 08/17/98]
08/17/98 18 Order unfiling [17-1] amended

complaint by plaintiff Cheryl Ann Moore due to the following deficiency: case is closed Copies to counsel: 08/17/98 (signed by Judge Barefoot Sanders) Page(s) 2(jas)
08/21/98 19 Motion by plaintiff Cheryl Ann Moore for leave to file supplemental pleading (3) (jas)[Entry date 08/24/98]
08/24/98 20 Order denying [19-1]motion for leave to file supplemental pleading (signed by Judge Sanders) Copies to counsel: 08/24/98 Page(s) 1 (jas)
08/28/98 21 Notice of Appeal by plaintiff Cheryl Ann Moore from the Judgement entered on April 4, 1998. Appeal record due on 09/14/98cc: Judge (3)(sak)[Entry date 09/08/98]
09/08/98 -Notice of appeal and certified copy of docket to USCA: [21-1] appeal (jas)
09/22/98 -USCA Cse Number, 98-11048 Re: [21-1] appeal (mcl) [Entry date 09/23/98]
10/28/98 -USCA appeal fees received $105.00 [21-1] appeal Receipt #106001 (ple) [Entry date 10/29/98]
11/06/98 -Transmitted record on appeal to U.S. Court of Appeals: [21-1] appeal consisting of 1 vol c[illegible]e papers, 1 vol USC (mcl)
End of Docket:3:97cv3126

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore	)	
Plaintiff	)	
v	)	Civil Action No.
	)	3-97 CV 3126-H
FDIC	)	
Defendant	)	
	)	

ORDER

For good cause shown, it is by this Court this 7 day of April 1998,

ORDERED that Ingeborg G. Chaly=s Motion to Appear Pro Hac is granted.

(Signed by Judge Barefoot Sanders)
Filed 4/7/98

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore	)	
Plaintiff	)	
v	)	Civil Action No.
	)	3-97 CV 3126-H
FDIC	)	
Defendant	)	
	)	

MEMORANDUM OPINION AND ORDER

Before the Court are Defendant's Motion to Dismiss, filed March 4, 1998, and pleadings related thereto.
Plaintiff Cheryl Ann Moore (Plaintiff), proceeding pro se, brings causes of action against Defendant Federal Deposit Insurance Corporation (Defendant) pursuant to Tile VII of the Civil Rights Act of 1964, as amended 42 U.S.C. Section 2000e et seq., and the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12010 et seq. Specifically, Plaintiff asserts that she was discriminated against on the basis of her race (African-American) and her physical disabilities (scoliosis, tendinitis, arthritis, hypothyroidism, and flat feet) when she was denied sick leave in August/September of 1996. For the reasons stated below, Defendant's Motion to Dismiss is granted and Plaintiff's claims are dismissed with prejudice: (Plaintiff appears to allege that her two week suspension in July of 1997 was in retaliation for her filing of a complaint with the EEO Counselor. This claim is not addressed by the pending motion. However, Plaintiff presents no evidence that she was complied with the

addressed by the pending motion. However, Plaintiff presents no evidence that she was complied with the procedural prerequisites necessary to bring a cause of action for retaliation under Title VII. See Tolbert v. United States, 916 F.2d 245, 247 (5th Cir. 1990)(per curiam)(a plaintiff must exhaust his/her administrative remedies prior to filing a Title VII claim in federal court).

Factural Background Plaintiff contends that she was discriminated against on the basis other race and her physical disabilities when she was denied sick leave in August/September of 1996. Plaintiff's first contact with an Equal Employment Opportunity (AËEO@) Counselor was on January 3, 1997, well after the forty-five day statutory time period for filing such claims had elapsed. See 29 C.F.R. Section 1614.105(a)(1), 29 C.F.R. Section 1614.106(b)(a federal employee must submit his or her complaint to an agency representative after bringing the matter to the attention of an EEO Counselor within forty-five days of the alleged Title VII violation or, if a personnel action, within forty-five days of its effective date); see also, 29 D.F.R. 1614.107(b) (an agency shall dismiss a complaint that fails to comply with the applicable statute of limitations). As a result, Defendant's EEO Division administratively dismissed Plaintiff's complaint as untimely. See Letter from Pamela Nelson, Senior Attorney/Oversight Manager, to Cheryl Ann Moore (September 24, 1997) (attached to Plaintiff's Complaint and Defendant's Motion at Exh. A.). Plaintiff filed this suit on December 22, 1997.

Standards: Judicial Review-When an employee=s administrative EEO complaint is dismissed on procedural grounds before the merits are reach by the agency, the Court's review is limited to a de novo review of the dismissal. Johnson v Bergland, 614 F.2d 415, 418 (5th Cir.

1980). Rule 12(b)6-Motions to dismiss under Federal Rule of Civil Procedure 12(b)(6) are Adisfavored in the law@ AND COURTS AWILL RARELY ENCOUNTER CIRCUMSTANCES WHICH JUSTIFY GRANTING SUCH A MOTION.@ *Mahone v. Addicks Util. Dist., 836 F.2d 921, 926 (5th Cir. 1988).* A motion to dismiss is granted only if it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief.@ *Conley v. Gibson, 355 U.S. 41, 45-6 (1957).* AThe issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to suppor the claims.@ *Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).* To avoid dismissal for failure to state a claim, however, a plaintiff Amust please specific facts, not mere conclusory allegations.@ *Guidry v. Bank of LaPlace, 954 F.2d 278, 281 (5th Cir. 1992).*

Analysis Government employees can sue their employers pursuant to Title VII only if they first timely exhaust their administrative remedies, as defined by the statute and the regulations promulgated thereunder. *Brown v. General Servs. Admin., 425 U.S. 820, 835 (1976); Hampton v. I.R.S., 913 F.2d 180, 182 (5th Cir. 1990) (Plaintiff, although she does not explicitly state so, also appears to be raising a claim under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq (AADA@). The ADA incorporates by reference the administrative procedures prescribed by Title VII. 42 U.S.C. Section 12117(a). Consequently, the Court finds that Plaintiff's failure to timely assert her claim that she was denied sick leave du to her disabilities is subject to the same procedural requirements as her race-based contentions (forty-five days within which to complain to an EEO Counselor).* To pursue a claim under Title VII, federal employees must bring incidents of discrimination to the

attention of their employer's EEO Counselor with forty-five days of the alleged event. See 29 C.F.R. Section 1614.105(a)(2). Plaintiff bears the burden of establishing that she acted in a timely fashion. *Saltz v. Lehman, 672 F.2d 207, 209 (D.C.* Cir. 1982)

Equitable tolling applies to the Title VII suits against the United States. *Irwin v. Department of Veterans Affairs, 498 U.S. 89, 95-96 (1990); see also, Wilson v. Secretary, Dep=t of Veterans Affairs, 65 F.3d 402,404 (5th Cir. 1995) (the time limits of 29 C.F.R. 1614.604 et seq. Are subject to waiver, estoppel, and equitable tolling). (There is a mandatory extension of the forty-five day time limit when the complainant demonstrates 1) that he or she did not know and should not reasonably have known that the discriminatory matter or personnel action occurred; 2) that despite due diligence he or she was prevented by circumstances beyond his or her control from contracting the counselor within the time limits, or 3) for other reasons considered sufficient by the agency or the EEOC. 29 C.F.R. Section 1614.105(a)(2)* . However, Plaintiff has presented to the Court no reasons as to why she failed to comply with the forty-five day time limit. Nevertheless, the April 8, 1997 EEO's Counselor's Report indicates that Plaintiff contended during their meeting that she thought that she had three hundred days in which to contact the EEO Counselor. In its September 24, 1997 dismissal of Plaintiff's claim, Defendant's EEO Division noted that Plaintiff's contention that she was unaware of the applicable time limit is suspect in that she managed to contact the EEO Counselor within the statutory period regarding her other claims. Further, Defendant made available to its employees information regarding the EEO process via agency wide bulleting board postings and by providing EEOC training courses. Thus, there existed no

basis for tolling the forty-five day time limit. *See Baldwin County Welcome Center v. Brown, 466 S.Ct 147, 151 (1984) (equitable tolling excuses a late Title VII filing when a claimant receives inadequate notice of her right to sue or when a defendant's affirmative misconduct lulls the plaitiff into inaction, but not when a plaintiff who has received direction from the administrative agency about what to do to preserve her claims fails to do so); Wilson v. Secretary, Dept. Of Veterans Affairs, 63 F.3d 402, 404 (5th Cir 1995) (Plaintiff's failure to exercise due diligence to preserve her legal rights precludes her from invoking equitable principles to excuse that lack of diligence).*.

Because Plaintiff has failed to present grounds to justify an equitable tolling of the forty-five day time limit during which she was suppose to contact the EEO Counselor, the Court finds that Defendant's Motion to Dismiss should be granted. *See 29 C.F.R. 1614.105(a)(2).*

Conclusion: For the reasons stated above, Defendant's Motion to Dismiss is GRANTED and judgment will be entered accordingly. *See Fed. R. Civ. P. 12(b)(6)*

SO ORDERED

DATED: *April 7, 1998*

Signed by Judge Sanders
Filed 4/7/99

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore Plaintiff	))
v	) Civil Action No.
FDIC Defendant	) 3-97 CV 3126-H)

JUDGEMENT

This Judgment is entered pursuant to the Court's Memorandum Opinion and Order, dated April 7, 1998, granting Defendant Federal Deposit Insurance Corporation's Motion to Dismiss.

IT IS ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff Cheryl Ann Moore take nothing by her suit against Defendant and that this suit be, and it is hereby, DISMISSED on the merits at Plaintiff's cost.

Signed by Judge Sanders on 4/7/98.
Filed 4/7/98

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore	)	
Plaintiff	)	
v	)	Civil Action No.
	)	3-97 CV 3126-H
FDIC	)	
Defendant	)	
	)	

ORDER

Before the Court is Plaintiff Cheryl Ann Moore's (Aplaintiff's) Motion for an Extension of Time for Appeal. *(See On April 7, 1998, the Court entered its Judgment dismissing Plaintiff's suit.)* After due consideration, the Court finds that Plaintiff's request lacks merit. *See Federal Rule of Appellate Procedure 4(a)(5); Latham v. Wells Fargo Bank, N. A., 987 F.2d 1199, 1202 (5th Cir. 1993) (holding that Rule 4(a)(5)=s allowance for extensions in cases of excusable neglect or good cause is to be construed narrowly).* Accordingly, Plaintiff's motion is DENIED and an appeal, if any, must be filed within the time limits prescribed by Federal Rule of Appellate Procedure 4(a).
SO ORDERED.
DATED: April 24, 1998

Signed by Judge Sanders filed 4/27/98

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore Plaintiff) v	))	Civil Action No. 3-97 CV 3126-H
FDIC Defendant	))	

ORDER

Before the Court is Plaintiff's Motion to Appeal the Decision to Dismiss, filed May 6, 1998. The Curt treats the pending motion as a motion for reconsideration and, after reviewing the pleadings, briefs, and relevant authorities, is of the opinion that Plaintiff's motion should be, and it is hereby, DENIED.

SO ORDERED.
DATED: July 20, 1998

Signed by Judge Sanders filed 7/20/98

IN THE UNITED STATED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cheryl Ann Moore	)	
Plaintiff	)	
v	)	Civil Action No.
	)3-97 CV 3126-H	
FDIC	)	
Defendant	)	
_____	)	

ORDER

Before the Court is Plaintiff's Motion to File Supplemental Pleading, filed August 21, 1998. On April 7, 1998, the Court, after carefully reviewing the pleadings, briefs, and relevant authorities, entered Judgment against Plaintiff Cheryl Ann Moore. The case was accordingly closed. Plaintiff now requests that the Court grant leave to file a supplemental pleading. After due consideration, Plaintiff's motion is DENIED.

SO ORDERED DATED: August 24, 1998

Signed Judge Sanders Filed 8/24/98

APPENDIX D

98-11048

GENERAL DOCKET FOR
Fifth Circuit Court of Appeals

Court of Appeals Docket #: 98-11048 Filed: 9/16/98
Nsuit: 2440 Civil Rights: Other.
Moore v. Fed Deposit Ins Corp
Appeal from: Northern District of Texas, Dallas

Lower court information:

District: 0539-3 : 3:97-CV-3126-H
Ordering Judge: Barefoot Sanders, US District Judge
Date Filed: 12/22/97
Date order/judgment: 4/8/98
Date NOA filed: 8/28/98

Fee status: Paid

Prior cases:
None
Current cases:
None

Docket as of May 15, 2000 6:28 pm

Proceedings include all events.
98-11048 Moore v. Fed Deposit Ins Corp

CHERYL A MOORE
Plaintiff - Appellant
Suite 601
[NTC pse]
4820 Westgrove Drive
Addison, TX 75001

Cheryl A Moore
972-761-2010

v.

FEDERAL DEPOSIT INSURANCE CORPORATION, c/o Andrew Hove, COB
Defendant - Appellee
[COR LD NTC gvt]
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Barbara Reesa Sarshik
FAX 202-736-0821
202-736-0192
Suite H-11083

Docket as of May 15, 2000 6:28 pm

Proceedings include all events.
98-11048 Moore v. Fed Deposit Ins Corp

CHERYL A MOORE

Plaintiff - Appellant

v.

FEDERAL DEPOSIT INSURANCE CORPORATION, c/o Andrew Hove, COB

Defendant - Appellee

Docket as of May 15, 2000 6:28 pm

Proceedings include all events.

98-11048 Moore v. Fed Deposit Ins Corp

9/16/98 Civil rights case docketed. NOA filed by Appellant Cheryl A
Moore. [98-11048] (cdd)

10/28/98 Fee paid by Appellant Cheryl A Moore. [98-11048] Fee ddl
satisfied. (rff)

10/28/98 Record requested from district court. [98-11048] ROA due
on 11/12/98 . (rff)

11/9/98 Appearance form filed by Barbara Reesa Sarshik for Appellee
Fed Deposit Ins Corp. [98-11048] (swt)

11/10/98 Record on appeal filed. Vol(s) of Pleadings: 2. [98-11048]
ROA ddl satisfied. (jtr)

11/18/98 Briefing notice issued. [98-11048] A/Pet=s Brief due on

12/28/98 for Cheryl A Moore. (jtr)

11/30/98 Motion filed by Appellant Cheryl A Moore for appointment of

counsel. (SUBMIT TO SCREENING JUDGE AND PANEL) [1125996-1]

[98-11048] (pok)

12/28/98 Appellant=s Brief filed by Appellant Cheryl A Moore. Copies
of brief: 4 # of pages: 30. Date of COS: 12/26/98
Sufficient [Y/N]: n needs signature & 3 more copies.
[98-11048] A/Pet=s Brief ddl satisfied. E/Res=s Brief due on 1/27/99 for Fed Deposit Ins Corp. Record Excerpts due on 1/8/99 for Cheryl A Moore. Sufficient Brief due on 1/8/99 for Cheryl A Moore. (jtr)

1/4/99 Record excerpts filed by Appellant Cheryl A Moore # of
copies: 4 Sufficient [Y/N]: Y. [98-11048] Record Excerpts ddl satisfied. (sep)

1/5/99 Record on appeal released to attorney Barbara Reesa Sarshik
for Appellee Fed Deposit Ins Corp. Volumes: 2 [98-11048] (swt)

1/8/99 Brief made sufficient by Appellant Cheryl A Moore
[98-11048] Sufficient Brief ddl satisfied. (jtr)

1/21/99 Motion filed by Appellee Fed Deposit Ins Corp to extend
time to file appellee(s) brief until 2/26/99 [1171127-1]
Excess Pages? (Y/N) n [98-11048] (rff)

1/21/99 CLERK Order filed granting motion to extend time to file
Appellee=s Brief [1171127-1] E/Res=s Brief ddl updated to 2/26/99 ONLY for Fed Deposit Ins Corp. Copies to all counsel. [98-11048] (ddk)

3/1/99 Appellee=s Brief filed by Appellee Fed Deposit Ins Corp.
Copies of Brief: 7 # of pages: 18. Date of COS: 2/26/99
Sufficient [Y/N]: y. [98-11048] E/Res=s Brief ddl
satisfied. Reply Brief due on 3/15/99 for Cheryl A Moore.
{ }

{tc \l 1 "Docket as of May 15, 2000 6\:28 pm "}
Proceedings include all events.

98-11048 Moore v. Fed Deposit Ins Corp

(lmm)

3/1/99 The attorney Ingeborg G Chaly for Fed Deposit Ins Corp,
attorney Frank D Able for Fed Deposit Ins Corp not

participating in case. [98-11048] (lmm)

3/4/99 Record on appeal returned to 5CCA. Volumes: 2 [98-11048]
(swt)

3/15/99 Extension granted by phone until: 3/22/99 to file reply
brief for Appellant Cheryl A Moore. [98-11048] (pok)

3/16/99 Confirmation letter filed by Appellant Cheryl A Moore
confirming an extension of time to and including 3/22/99 for filing reply brief. [98-11048] Reply Brief ddl updated to 3/22/99 for Cheryl A Moore. (lmc)

3/22/99 Reply brief filed by Appellant Cheryl A Moore. Copies of
Brief: 7 # of pages: 15. Date of COS: 3/19/99 Sufficient [Y/N]: n. needs signature. [98-11048] Sufficient Brief due on 4/2/99 for Cheryl A Moore. Reply Brief ddl satisfied. (jtr)

3/22/99 Motion filed by Appellant Cheryl A Moore for supplemental
information (letter dated 3/1/99 regarding class action suit against FDIC) [1228242-1] Response/Opposition due on 4/2/99.
Excess Pages? (Y/N) n (SUBMIT TO SCREENING JUDGE AND PANEL)
[98-11048] (dms)

4/1/99 Response/opposition filed by Appellee Fed Deposit Ins Corp
to motion to supplement the record [1228242-1] by Appellant
Cheryl A Moore Response/Opposition ddl satisfied. Reply to Resp/Opp due on 4/8/99. Excess Pages? (Y/N) n [1237442-

1]
[98-11048] (rff)

4/5/99 Brief made sufficient by Appellant Cheryl A Moore
[98-11048] Sufficient Brief ddl satisfied. (jtr)

7/7/99 Motion filed by Appellant Cheryl A Moore to petition for
clarification and interpretation [1331819-1]
Response/Opposition due on 7/19/99. Excess Pages? (Y/N) n
[98-11048] (SUBMIT TO SCREENING JUDGE AND PANEL) (ddk)

7/13/99 Motion filed by Appellant Cheryl A Moore for supplemental
information. [1336032-1] Response/Opposition due on 7/23/99.
Excess Pages? (Y/N) n (SUBMIT TO SCREENING JUDGE AND
PANEL)[98-11048] (swt)

7/15/99 Motion filed by Appellant Cheryl A Moore for supplemental

information [1348803-1] Response/Opposition due on 7/26/99.

Excess Pages? (Y/N) n (SUBMIT TO SCREENING JUDGE AND PANEL)

[98-11048] (cvt)

{tc \l 1 "Docket as of May 15, 2000 6\:28 pm "}
Proceedings include all events.

98-11048 Moore v. Fed Deposit Ins Corp

7/29/99 Motion filed by Appellee FDIC [1351504-1] for leave to file
objection out of time to motion to supplement the record [1348803-1] by Appellant Cheryl A Moore Excess Pages? (Y/N) n [98-11048] (SUBMIT TO SCREENING JUDGE AND PANEL)

(rff)

8/2/99 Petition for denial treated as an opposition filed by
Appellant Cheryl A Moore to motion for leave to file response out of time to appellant=s motion to supplement the record on appeal [1351504-1] by Appellee FDIC Excess Pages? (Y/N) n [1354423-1] [98-11048] (rff)

8/10/99 Response/opposition filed by Appellee FDIC to motion for
extraordinary relief [1331819-1] by Appellant Cheryl A Moore Excess Pages? (Y/N) n [1364978-1] [98-11048] (rff)

8/26/99 Opinion filed. Issue Mandate due on 10/18/99. [98-11048]
(rmf)

8/26/99 Judgment entered and filed. [98-11048] (rmf)

8/26/99 COURT Order filed denying appellee=s motion for leave to
file response [1351504-1], denying appellant=s motion to

supplement the record [1348803-1], denying appellant=s motion to supplement the record [1336032-1], denying appellant=s motion to petition for clarification and interpretation [1331819-1], denying appellant=s motion to supplement the record [1228242-1], denying appellant=s motion to appoint counsel [1125996-1] (EGJ,EHJ,FPB)(HANDLED IN OPINION) Copies to all counsel. [98-11048] (rmf)

9/3/99 Extension granted by phone until: 9/16/99 to file petition for rehearing for Appellant Cheryl A Moore. [98-11048] (pok)

9/7/99 Confirmation letter filed by Appellant Cheryl A Moore confirming an extension of time to and including 9/16/99

for filing petition for rehearing / rehearing en banc.

[98-11048] Issue Mandate ddl updated to 9/17/99. (swt)

9/15/99 Petition filed by Appellant Cheryl A Moore for rehearing en banc. # of copies filed: 20 [1399127-1] Issue Mandate ddl canceled. Sufficient Rehearing due on 9/27/99 for Cheryl A Moore. [98-11048] (lacking copy of opinion, certificate of service, also sent supplemental brief & notice of appeal without a motion) (jca)

9/22/99 Motion filed by Appellant Cheryl A Moore for leave to file supplemental brief in support of rehearing en banc, treated

as a motion to allow attachments to petition for rehearing en banc [1410322-1]. Attachments tendered? (Y/N): y. Excess
Pages? (Y/N) n [98-11048] (amg)
9/22/99 Rehearing made sufficient by Appellant Cheryl A Moore
[98-11048] Sufficient Rehearing ddl satisfied. (jca)
Docket as of May 15, 2000 6:28 pm

Proceedings include all events.

{tc \l 1 "98-11048 Moore v. Fed Deposit Ins Corp"}
9/23/99 Motion filed by Appellant Cheryl A Moore for leave to file
notice of appeal as an attachment to petition for rehearing en banc [1412057-1] Attachment tendered? (Y/N): y. Excess Pages? (Y/N) n [98-11048] (amg)
10/5/99 COURT Order filed granting appellant=s motion for leave to
file supplemental brief in support of rehearing en banc, treated as motion to allow attachments to petition for rehearing en banc [1412057-1], granting appellant=s motion for leave to file notice of appeal as attachment to rehearing en banc [1410322-1] (EGJ) Copies to all counsel. [98-11048] (anp)
10/5/99 Supplemental brief in support of rehearing en banc filed by
Appellant Cheryl A Moore treated as attachment to petition for rehearing en banc. Copies of apx: 20 [98-11048] (jca)
10/5/99 Notice of Appeal filed by Appellant Cheryl A Moore treated
as attachment to petition for rehearing en banc. Copies of apx: 20 [98-11048] (jca)

10/18/99 Motion filed by Appellant Cheryl A Moore for leave to file
supplemental information regarding claim of retaliation/reprisal as support for rehearing en banc [1429737-1] Excess Pages? (Y/N) n [98-11048] (rff)
10/21/99 COURT Order filed denying petition for rehearing en banc
[1399127-1] With poll (Y/N)?: n Issue Mandate due on 10/28/99. Copies to all counsel. [98-11048] (jca)
10/21/99 COURT Order filed denying appellant=s motion to file
supplemental information regarding claim of retaliation/reprisal as support of rehearing en banc [1429737-1] (EGJ) Copies to all [98-11048] (ddk)

10/26/99 Motion to file stay of mandate petition for certiorari
filed by Appellant Cheryl A Moore treated as motion to stay the mandate [1438298-1] Response/Opposition due on 11/5/99.
Excess Pages? (Y/N) n [98-11048] (jca)
11/5/99 Opposition filed by Appellee FDIC to motion to stay mandate
[1438298-1] by Appellant Cheryl A Moore Response/Opposition
ddl satisfied. Reply to Resp/Opp due on 11/12/99 . Excess Pages? (Y/N) n [1448819-1] [98-11048] (cvt)
11/8/99 Motion to file supplemental information to stay of mandate
petition for certiorari filed by Appellant Cheryl A Moore

[1450362-1] treated as motion to file supplement in support of motion to stay mandate [1438298-1] by Appellant Cheryl A Moore Response/Opposition due on 11/18/99. Excess Pages?
(Y/N) n [98-11048] (jca)

Docket as of May 15, 2000 6:28 pm

Proceedings include all events.

{tc \l 1 "98-11048 Moore v. Fed Deposit Ins Corp"}
11/18/99 Appellant=s motion for supplemental information file as a
motion filed by Appellant Cheryl A Moore [1459539-1] for leave to file memorandum to motion for leave to file memorandum in support of motion to stay mandate [1450362-1]
by Appellant Cheryl A Moore, motion to stay mandate [1438298-1] by Appellant Cheryl A Moore Excess Pages? (Y/N)
n [98-11048] (rff)

12/1/99 COURT Order filed denying appellant=s motion to stay

mandate [1438298-1] (EGJ) Copies to all counsel. [98-11048]

(ddk)

12/1/99 COURT Order filed granting appellant=s motion to file
supplemental information, treated as motion to file supplement in support of motion to stay mandate [1450361-

1]
denying appellant=s motion to file supplemental information as a motion for leave to file memorandum to motion for leave to file memorandum in support of motion to stay mandate [1459539-1] (EGJ) Copies to all counsel. [98-11048]
(ddk)
12/2/99 Mandate issued. Approved BOC Issued (Y/N)?: N [98-11048]
Issue Mandate ddl satisfied. (sds)
12/2/99 Record on appeal returned to USDC. Volumes of Pleadings: 2.
[98-11048] (sds)

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048

Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

Federal Deposit Insurance
Corporation c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

USDC No. 3:97-CV-3126-H

Before Jolly, Jones and Benavides, Circuit Judges.
PER CURIAM: *(Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.*

Proceeding pro se, Cheryl Ann Moore filed an employment discrimination complaint against the Federal Deposit Insurance Corporation (FDIC). The district court dismissed Moore's complaint pursuant to Fed. R. Civ. P. 12(b) *(6)*. Subsequently, Moore filed a motion to file a supplemental pleading in the case, which the district court denied. Moore filed a timely notice of appeal from that

order.

On appeal, Moore reargues the underlying merits of her complaint and challenges the district court's dismissal of the complaint based on a lack of exhaustion. However, because Moore did not file a timely notice of appeal of the district court's judgment, this court does not have jurisdiction to review the propriety of the court's dismissal. *See United States v Carr, 979 F.2d 51, 55 (5th Cir. 1992).* Although Moore filed a motion seeking both permission to appeal and reconsideration by the district court within 60 days of the court's dismissal, the district court did not construe such motion as a timely notice of appeal, presumably because the motion did not clearly evince an intent to appeal. *See Mosley v Cozby, 813 F.2d 659, 660 (5th Cir. 1987).* Moore does not argue on appeal that this was an error. Further, because the motion was not filed within 10 days of the court=s order, it cannot be construed as a Fed. R. Civ. 59 motion, which would have suspended the time for filing an appeal. *See Huff v International Longshoreman=s Ass=n. Local No. 24, 799 F.2d 1087, 1089-90 (5th Cir. 1986).*

This court does, however, have jurisdiction to review the district court's denial of Moore's motion to file a supplemental pleading. Moore argues that by moving to file a supplemental pleading, she was attempting to put before the court information that she was not aware of at the time of her initial filing. Moore has not shown that the district court abused its discretion by denying her motion to file a supplemental pleading. *See Latham v Wells Fargo Bank, N.A., (987 F.2d 1199, 1203 (5th Cir. 1993); Southern Constructors Group v Dynalectric Co., 2F.3d 606, 611* and n.18 (5th Cir. 1993).

The judgement of the district court is
AFFIRMED All outstandiing motions are DENIED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048

Summary Calendar

D.C. Docket No. 3:97-CV-3126-H

Cheryl Ann Moore
Plaintiff-Appellant,

versus

Federal Deposit Insurance
Corporation c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

Before JOLLY, JONES, AND BENAVIDES, Circuit Judges.

J U D G E M E N T

This cause came on to be heard on the record on appeal and was taken under submission on the briefs on file. ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that the judgment of the District Court in this cause is affirmed.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendant-appellee the costs on appeal to be taxed by the Clerk of this Court.

ISSUED AS MANDATE: DEC 02 1999

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048

Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

Federal Deposit Insurance
Corporation c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

O R D E R:

IT IS ORDERED that appellant's motion for lave to file supplemental brief in support of rehearing en banc, treated as motion to allow attachments to petition for rehearing en banc, is GRANTED.

IT IS FURTHER ORDERED that appellant's motion for leave to file notice of appeal as attachment to rehearing en banc is GRANTED.

Signed by Judge Jolly dated 10/5/99

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048

Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

Federal Deposit Insurance
Corporation c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

O R D E R:

IT IS ORDERED that appellant's motion for leave to file supplemental information regarding claim of retaliation/reprisal as support of rehearing en banc is DENIED.

Signed by Judge Jolly Filed 10/21/99

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048
Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

Federal Deposit Insurance
Corporation c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

ON PETITION FOR REHEARING EN BANC

(Opinion 08/26/99, 5th Cir., F.3d)
Before JOLLY, JONES and BENAVIDES, Circuit Judges.
PER CURIAM:

Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. App. P. and 5th CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

Signed by Judge Jolly dated 10/21/99

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048

Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

AS RECEIVER OF THE FORMER SILVERADO
BANKING SAVINGS & LOAN ASSOCIATION
c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

O R D E R:

The motion of appellant for stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

Signed by Judge Jolly Filed 12/1/99

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11048
Summary Calendar

Cheryl Ann Moore
Plaintiff-Appellant,

versus

AS RECEIVER OF THE FORMER SILVERADO
BANKING SAVINGS & LOAN ASSOCIATION
c/o Andrew Hove, COB
Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

ORDER:

IT IS ORDERED that appellant's motion to file supplemental information, treated as motion to file supplement in support of motion to stay mandate is GRANTED.

IT IS FURTHER ORDERED that appellant's motion to file supplemental information as a motion for leave to file memorandum to motion for leave to file memorandum in support of motion to stay mandate is DENIED.

Signed by Judge Jolly Filed 12/1/99

APPENDIX E

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P>O> Box 19848
Washington, D.C. 20036

October 12, 1999

Cheryl Ann Moore
16300 Ledgemont 2409
Addison, TX 75001

Compliance Tracking #: 06991840
OFO Docket # : 01985387
Agency # : 97104

Dear Ms. Moore:

This is to notify you that no further compliance monitoring activity is required by this office and your compliance files is now closed, for the reason cited below: We have been informed that you have filed a civil action in Federal District Court.

If you have any questions, please contact me in writing or call (202) 663-4599.

Sincerely,
Signed Natalie Rochelle
Compliance Officer
Compliance and Control Division

Cc: Fed Deposit Ins Corp

Dir, ODEO
801 17th St. NW 12th Fl
Washington, D.C. 20434